

Message Text

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C O N F I D E N T I A L STATE 120996

E. O. 11652: GDS

TAGS: MARR/ JA/ US

SUBJECT: JAPANESE MARITIME TRAFFIC SAFETY LAW (MTSL)

REF: A. TOKYO 3802

B. TOKYO 3608

1. EMBASSY' S EFFORTS TO REDUCE IMPACT OF MTSL ON NAVY/ MSC

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SHIPS ARE GREATLY APPRECIATED. WE ASSUME FROM PARA 4 OF REF A THAT REQUEST FOR EXEMPTION OF US FORCES CONTROLLED VESSELS FROM PROVISIONS OF MTSL WAS NOT SUBMITTED TO JOINT COMMITTEE MEETING 5 APRIL, AS PROPOSED PARA 5 OF REF B.

2. COMNAVFOR JAPAN HAS ADVISED NAVY THAT IT WAS BRIEFED ON APRIL 17 BY MSA REPS, AS RECOMMENDED IN PARA 4 OF REF A. FOLLOWING RECAPITULATES OUR UNDERSTANDING OF INFORMAL ORAL ASSURANCES NOW RECEIVED FROM GOJ AS TO ITS WILLINGNESS TO MODIFY IMPLEMENTATION OF MTSL/ MINISTRY OF TRANSPORTATION ORDINANCE (MOTO) WITH RESPECT TO US VESSELS, AS REPORTED IN REFS A AND B:

A. AMMUNITION SHIPS WILL BE EXEMPTED FROM APPLICATION OF MTSL.

B. FUEL AND AMMUNITION CARRIED BY A USN/ MSC SHIP FOR ITS OWN USE WILL NOT BE CONSIDERED " DANGEROUS CARGO."

C. PRIORITY TREATMENT WILL BE ACCORDED USN/ MSC SHIPS IN USE OF RESTRICTED CHANNELS. WE UNDERSTAND THIS SIGNIFIES GOJ AGREES THAT US FORCES CONTROLLED VESSELS GREATER THAN 200 METERS IN LENGTH ARE NOT REQUIRED TO RECEIVE ACKNOWLEDGEMENT, I. E., PERMISSION OF MSA, PRIOR TO TRANSIT OF RESTRICTED CHANNELS BUT SIMPLY PROVIDE ADVANCE NOTICE BEFORE USING THEM.

D. IN ADDITION, COMNAVFORJAPAN REPORTS MSA REPS ON 17 APRIL INDICATED GOJ WILLINGNESS NOT REQUIRE IDENTIFICATION OF SHIP OR DESCRIPTION OF CARGO.

3. NOTIFICATION PROBLEM APPEARS RESOLVED BY FONOFF ASSURANCE AS TO PRIORITY TREATMENT REFERRED TO IN PARA 2 C ABOVE. SINCE NOTIFICATION TO GOJ IS ALREADY BEING PROVIDED IN CERTAIN INSTANCES AND HAS NOT PROVED TO BE AN IMPEDIMENT TO NAVAL OPERATIONS, WE CAN ACCOMMODATE THIS NOTIFICATION REQUIREMENT.

4. THESE ENCOURAGING ASSURANCES GREATLY REDUCE THE SCOPE OF THE PROBLEMS INITIALLY FORESEEN.

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5. WE NEED, HOWEVER, TO SEEK EXEMPTION FROM MOTO PROVISION REQUIRING INSTALLATION OF SIGNALS/ LIGHTS AND DAY SHAPES NOT PRESENTLY REQUIRED BY INTERNATIONAL LAW. AS GOJ IS AWARE, ALL USN SHIPS ARE EQUIPPED WITH LIGHTS AND SIGNALS REQUIRED BY THE INTERNATIONAL RULES OF THE ROAD. MORE IMPORTANTLY, FULFILLING MOTO REQUIREMENT WOULD REQUIRE

NAVY AND MSC TO ENGAGE IN COSTLY PROGRAM OF INSTALLING THESE SIGNALS/ LIGHTS ON MOST OF THEIR LARGE UNITS, SINCE MOST NAVY AND MSC SHIPS MUST BE READY AT ALL TIMES FOR RAPID DEPLOYMENT TO JAPANESE OR OTHER WATERS. JAPANESE REQUIREMENTS FOR INSTALLATION OF SPECIAL SIGNALS/ LIGHTS WHICH ARE NOT YET ACCEPTED FOR USE BY INTERNATIONAL MARITIME COMMUNITY WOULD BE AN UNREASONABLE BURDEN ON US NAVY. FURTHERMORE, UNLESS THESE SIGNALS/ LIGHTS WERE INSTALLED ON EACH AND EVERY USN AND MSC VESSEL, THIS REQUIREMENT WOULD CONSTITUTE AN UNREASONABLE RESTRICTION OF THE FREEDOM OF MOVEMENT OF THOSE VESSELS. FOR THESE REASONS, NAVY IS UNWILLING TO EQUIP ITS VESSELS WITH SPECIAL SIGNALS/ LIGHTS AS DESIRED BY JAPANESE.

6. IN ADDITION, WE DESIRE THAT NAVY/ MSC OILERS BE EXEMPTED FROM APPLICATION OF MTSI IN SAME MANNER AS AMMUNITION SHIPS.

7. IN ORDER TO PRECLUDE ANY MISINTERPRETATION OR UNAWARENESS BY GOJ ACTION AGENCIES OF ASSURANCES WE HAVE RECEIVED FROM JAPANESE AUTHORITIES AS OUTLINED IN PARA 2 ABOVE, IT IS IMPORTANT THAT ASSURANCES AS TO MODIFICATIONS OF MTSI/ MOTO BE FORMALIZED IN WRITING AND THAT THE GOJ AGENCIES CONCERNED BE SO INFORMED.

8. ACCORDINGLY, UNLESS YOU WISH TO PROPOSE ALTERNATE METHOD TO ACHIEVE THIS END, EMBASSY AND COMUSJ SHOULD SUBMIT MEMORANDUM TO JOINT COMMITTEE OUTLINING IN MOST FAVORABLE MANNER CONSISTENT WITH GOJ ASSURANCES USG STATEMENT OF ITS UNDERSTANDING OF THEM AND ASKING GOJ TO FORMALLY CONFIRM ITS ORAL ASSURANCES AS TO: (A) " DANGEROUS CARGO " VESSELS (PARAS 2 A, 2 B); (B) IDENTIFICATION OF SHIP DESTINATION AND CARGO DESCRIPTION (PARA 2 D); AND (C) PRIORITY TREATMENT AS UNDERSTOOD IN PARA 2 C. (1) FORMALIZED EXEMPTION OF US FORCES VESSELS FROM MOTO
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REQUIREMENTS TO INSTALL SPECIAL SIGNALS/ LIGHTS AND (2) MODIFICATION OF DEFINITION " DANGEROUS CARGO " AS PER PARA 6 ABOVE. EMBASSY MAY STATE IN MEMO THAT WE ARE SEEKING FORMAL EXEMPTION FROM CERTAIN PROVISIONS OF MTSI/ MOTO FOR US FORCES CONTROLLED VESSELS IN ORDER THAT THEY MAY BEST FULFILL THEIR MISSION UNDER THE SECURITY TREATY. EMBASSY MAY ALSO STATE THAT THE US RECOGNIZES THE OBLIGATION OF ITS SHIPS TO OBSERVE THE REQUIREMENTS OF GOJ LAWS RELATING TO TRAFFIC CONTROL AND SAFETY, AND THAT US FORCES CONTROLLED VESSELS OPERATING IN JAPANESE WATERS ARE COOPERATING WITH MSA UNDER THE PROVISIONS OF PARA 3 OF ARTICLE V OF THE SOFA. EMBASSY MAY ALSO USE ARGUMENTS IN PARA 5 ABOVE RE US POSITION ON LIGHTS AND MARKINGS. ROGERS

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